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December 14, 2021

VIA ECF

The Honorable Eric R Komitee, U.S.D.J  
U.S. District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: *Olsen v. Dandy Del Mar LLC., 1:21-cv-04572-EK-MMH*  
(Status Report / Consent Decree Withdrawal)

Dear Judge Komitee:

This firm represents Plaintiff Olsen in the above-referenced matter. Pursuant to the Court's instructions during our December 10, 2021 conference, and its subsequent Order (Dkt. 12), we submit this Joint Status Report on behalf of all parties to advise the Court that the parties withdraw their request for entry of the Consent Decree and respectfully request two weeks to revise their settlement agreement and file a Stipulation of Dismissal with Prejudice, with leave to reopen the case if the settlement cannot be finalized.

As part of settlement, Defendant Dandy Del Mar (without admitting any wrongdoing whatsoever or to the applicability of the ADA or similar New York state laws to the conduct alleged) shall, to the extent necessary, monitor and modify the Dandy Del Mar website ("Website") over the course of 60 months to substantially conform to the Web Content Accessibility Guidelines ("WCAG") WCAG 2.1 Level A and AA Success Criteria. Defendant's Website monitoring and/or modifications shall not apply to user-generated content, other content or advertisements, or websites not owned, operated, prepared or controlled by Defendant but that are linked from the Website. The Parties agree that Defendant may rely upon, in whole or in part, the Web Content Accessibility Guidelines as published by the World Wide Web Consortium (W3C) as well as general guidance for WCAG compliance as published by the W3C. In no event shall Defendant be required to monitor or modify the Website to the extent that doing so would constitute an undue burden as defined in the ADA, result in a fundamental alteration in the manner in which Defendant operates the Website, or result in a material loss of the Website's revenue or traffic. Should Congress, the Department of Justice, the Second Circuit of the United States Court of Appeal, the United States Supreme Court or any other federal court or agency issue a ruling or final regulations adopting a legal standard for



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applicability of the ADA or for website accessibility that is different from the WCAG, Defendant shall have the option of substantially complying with such legal standard in its sole and absolute discretion.

This is the second request to extend the deadline to file the Stipulation of Dismissal with Prejudice. The Court granted the parties first request to extend the deadline to file the Stipulation of Dismissal pending the December 10, 2021 conference regarding the now withdrawn Consent Decree. Defendant consents to this request.

We appreciate the Court's time and consideration of this request.

Respectfully submitted,  
LIPSKY LOWE LLP

s/ Christopher H. Lowe  
Christopher H. Lowe

CC: Defendant's Counsel (via Email)